

Exhibit D



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FILED
SUPERIOR COURT
THURSTON COUNTY, WA

1 Hearing date: January 8, 2021
2 Hearing time: 9:00 a.m.
3 Judge/Calendar: Honorable John C. Skinder

2021 JAN 29 AM 11:55

LINDA MYHRE ENLOW
THURSTON COUNTY CLERK

7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF THURSTON**

9 TODD BRINKMEYER,

NO. 20-2-01568-34

10 Plaintiff,

ORDER DENYING MOTION FOR
11 PRELIMINARY INJUNCTION

12 WASHINGTON STATE LIQUOR
13 AND CANNABIS BOARD,

14 Defendant.

15 THIS MATTER came before the Court on Petitioner's Motion for Preliminary Injunction
16 on January 8, 2021. Petitioner appeared by and through its attorneys, Miller Nash Graham &
17 Dunn, LLP per Andy Murphy, and the Washington State Liquor and Cannabis Board (Board),
18 Defendant, appeared by and through its attorneys, Robert W. Ferguson, Attorney General and
19 Penny Allen, Senior Counsel. Having considered the Motion, the Declaration of
20 Todd Brinkmeyer, the Declaration of Scott Atkison, the Declaration of Chris Masse, the
21 Declaration of Andy Murphy, Defendant's Response to the Motion, the Declaration of
22 Rebecca Smith and any reply in support of the Motion with any supporting papers and the files
23 and records herein, the Court is fully advised in the matter and FINDS:

24 1. Plaintiff has failed to establish that he will likely succeed on the merits of his claims.

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ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTION

20-2-01568-34

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ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
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1 a. Plaintiff has failed to meet its heavy burden to establish that Washington's
2 Residency Requirement is unconstitutional under Washington's Privileges and
3 Immunities Clause.

4 1. Plaintiff is not a Washington citizen and Article 1 Section 12 of the
5 Washington Constitution, the Privileges and Immunities clause, does not
6 apply to him.

7 2. Plaintiff also failed to establish that a fundamental right of state
8 citizenship is at issue. As Washington can regulate the production and sale
9 of marijuana to the point of prohibiting it entirely, there is no fundamental
10 right to engage in the production or sale of marijuana.

11 3. Defendant has established that there are reasonable grounds that support
12 Washington's Residency Requirement.

13 b. Plaintiff has failed to meet its burden and establish that the Board exceeded its
14 statutory authority in promulgating WAC 314-55-020. WAC 314-55-020 is in
15 accord with RCW 69.50.331 and RCW 60.50.342.

16 2. Plaintiff failed to establish that he will suffer actual and substantial injury. Alleged
17 constitutional violations are not sufficient to establish irreparable harm.
18 *Sierra Club v. Trump*, 379 F. Supp. 3d 883, 925 (N.D. Cal. 2019), *aff'd*, 963 F.3d
19 874 (9th Cir. 2020). His other alleged injuries are speculative and there are alternative
20 remedies to address his speculative injuries.

21 3. A preliminary injunction in this case would be contrary to the public interest and the
22 balance of the equities weigh in favor of the Board.

23 / / /

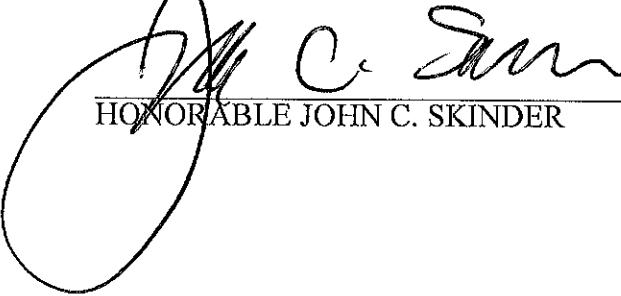
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1 Now therefore, the Court ORDERS that:

2 1. The motion is DENIED.

3 ORDERED THIS 29th day of JANUARY, 2021

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5 HONORABLE JOHN C. SKINDER

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7 Presented by:

8 ROBERT W. FERGUSON
9 Attorney General

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11
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